80-1153

Supreme Court, U. S.
FILED
DEC 22 1980
MICHAEL RODAK, JR., CLERK

NO.----------

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1981

ELVA J. HAUGEN
Petitioner
vs.

GLEN C. TAYLOR, HELEN C. CANNON, C. DONALD BROWN, JAMES C. ANDRUS, JOHN F. ANDERSON, CLARE W. WOODBURY, and DAVID CANTER, INDIVIDUALLY and as member of the BOARD OF SCHOOL TRUSTEES of the CLARK COUNTY SCHOOL DISTRICT;

and KENNY C. GUINN, INDIVIDUALLY and as SUPERINTENDENT of the CLARK COUNTY SCHOOL DISTRICT; RICHARD F. BROWN, Associate Superintendent, Personnel Division; CHARLES SILVESTRE, Assistant Personnel Manager; JOHN T. PAUL, Associate Superintendent; THERON SWAINSTON, Assistant Superintendent, Elementary Education; CECIL R. JACKSON, Principal, E. W. Griffith Elementary School; and KENNETH MARSHALL, Principal, Lois Craig Elementary School, INDIVIDUALLY and as employees of CLARK COUNTY SCHOOL DISTRICT;

DWAINE AVERY, JOSEPHINE C. BYRD, GERALD CONNERS, DON L. ESTES, and JOHN D. HARRINGTON, INDIVIDUALLY and as members of the PROFESSIONAL REVIEW PANEL and employees of the CLARK COUNTY SCHOOL DISTRICT.

Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

ELVA J. HAUGEN
1841 N. Decatur
Las Vegas, Nevada 89108
702–648–1116
Proper Person

TWO CATEGORIES OF QUESTIONS ARE PRESENTED

STATUTE OF LIMITATIONS

1. Whether the 6 year statute of limitations on written contracts in Nevada should have been applied by the lower courts rather than a 3 year statute.

   a. Whether the statute of limitations, NRS 11.190 (3) (a) entitled "liability created by statute" is applicable to the REMEDIAL statute 42 U.S.C. 1983.

   b. If so, whether NRS 11.190 (3) (a) is unconstitutional or constitutionally defective or invalid because it violates the equal protection clause of the Fourteenth Amendment of the United States Constitution as applied in this case by not providing an equal number of years to enforce a federal right as the State of Georgia, which is 20 years.

DUE PROCESS

1. Whether the Board of School Trustees of the Clark County School District who removed Petitioner from the payroll at the end of the working day of January 6, 1972:

   1. without cause;
   2. without stating a reason;
   3. without notice;
   4. without a hearing; and
   5. without following state statutory or Constitutional Due Process procedures for dismissal of teachers;

constituted a fair and impartial tribunal as required by the Due Process Clause of the Fourteenth Amendment when they heard the dismissal action 3½ months later on April 20, 1972.

LIST OF ALL PARTIES

Glen C. Taylor, Helen C. Cannon, C. Donald Brown, James C. Andrus, John F. Anderson, Clare W. Woodbury, David Canter, Kenny C. Guinn, Richard F. Brown, Charles Silvestre, John T. Paul, Theron Swainston, Cecil R. Jackson, Kenneth Marshall, Dwaine Avery, Josephine C. Byrd, Gerald Conners, Don L. Estes and John D. Harrington.

TABLE OF CONTENTS

Questions	i
Table of Contents	ii
Table of Authorities	iv
Opinions	v
Reference of Appendix	v
Grounds for Jurisdiction	vi
Constitutional Provisions	vii
Federal Statutes	vii
28 U.S.C. 1254 (1)	vii
28 U.S.C.1343 (3) (4)	vii
42 U.S.C. 1983	vii
42 U.S.C. 1985	viii
Nevada Revised Statutes	viii
NRS 11.190 (1) (b)	viii
NRS 11.190 (3) (a)	viii
NRS 41.036 3	viii
NRS 387.325	viii
NRS 391.312	ix
NRS 391.313	ix
NRS 391.314	ix
NRS 391.3195	ix
Gerogia's 3-704 (4360)	ix
Statement of Facts	1
Statute of Limitations	6
Contract	6
Letter of Suspension	7
Suspension from payroll	8
Letter of Dismissal	9
Complaint	10
NRS 11.190	11
Additional Points	12
NRS 42.016 "Claims" Statute	12
Notice of Claim	13
Denial of Claim	14

Longer Period of Limitation Applied 15
Limitation for Contract Applied 15
Attorney Interference 16
Classification of Rights 17
Common Law Rights 17
Life 17
Liberty 17
Property 17
Due Process Requirements 17
Decision must be stated–not secret 17
Legal Cause 17
Statement of Reason, Notice & Hearing 17
Hearing Before Deprivation–Meaning Time 17
Confrontation & Cross-examination 17
Right to Counsel of One's Choosing 17
Rights Created by Statute 18
Classification of Limitations of Actions 18
Common Law Rights 18
Rights Created by Statute 18
Remedies Limitless 18
42 U.S.C. 1983 19
NRS 11.190 (3) (a) 20
Governmental v. Private Contracts 22
Due Process 22
Impartial Tribunal 22
Summary 24
Conclusion 25
Receipt of Copy

TABLE OF AUTHORITIES

Beard v. Stephens, 372 F.2d 685.

Belton v. Traynor, 483 F.2d 82.

Board of Regents of State Colleges et al. v. Roth, 408 U.S. 564; 92 S.Ct. 2701; 33 L.Ed.2d 548.

Downs v. Conway School District, 328 F.Supp. 338.

Glus v. Brooklyn E. Dist. Terminal, 359 U.S. 231; 78 S.Ct. 760; 3 L.Ed.2d 770.

Goldbery v. Kelly, 397 U.S. 254; 90 S.Ct. 1011; 25 L.Ed.2d 287.

Graham v. Richardson, 403 U.S. 367; 91 S.Ct. 1848.

Harkless v. Sweeny Independent School District of Sweeny, Texas, 388 F.Supp. 738.

Harrison v. Clark County School District, LV-1164.

McAllister v. Magnolia Petroleum Co., 357 U.S. 221; 78 S.Ct. 1201; 2 L.Ed.2d at 1271.

Turner v. Staggs, 510 P.2d 879.

UAW v. Hoosier Cardinal Corporation, 383 U.S. 696; 86 S.Ct. 1007; 16 L.Ed.2d 192.

OPINIONS

On September 23, 1980 the Ninth Circut Court of Appeals denied Petitioner's petition for a rehearing and the suggestion for the rehearing en banc was rejected.

On July 21, 1980 the Ninth Circuit Court of Appeals affirmed the judgment of the District Court dismissing the action on an unidentified 3 year statute of limitations. They decided that the Notice of Claim did not suspend the right to proceed in federal court and that Petitioner's action accrued the date the dismissal letter was written.

On June 26, 1978 the District Court of Nevada dismissed the action with prejudice on the basis of the United States Magistrate's Report.

On May 12, 1978 the United States Magistrate dismissed the action on an unidentified 3 year statute of limitations.

On April 26, 1972 the Board of Trustees of the Clark County School District wrote a letter of dismissal without stating any evidence relied on or the date the dismissal was to become effective.

On February 2, 1972 the Professional Review Panel wrote its stigmatizing report recommending Petitioner's dismissal without identifying any evidence relied on.

On February 2, 1972 the Board of School Trustees removed Petitioner from the payroll effective at the end of the working day of 1-6-72.

REFERENCE OF APPENDIX

Denial of Rehearing by Court of Appeals	A
Memorandum of Court of Appeals	B
Order of District Court	C
Report of United States Magistrate	D
Letter of Dismissal	E
Professional Reviw Panel Report	F
Removal from Payroll	G
Nevada Revised Statutes 391.312	H
Nevada Revised Statutes 391.313, 391.314	I
Nevada Revised Statutes 391.3195	J

GROUNDS FOR JURISDICTION

The Ninth Circuit Court of Appeals has decided an important question of federal law which has not been settled but needs to be settled by this Court:

The applicable statute of limitations for an action applying the 42 U.S.C. 1983 REMEDIAL statute.

2. The Ninth Circuit Court of appeals decided a federal question in a way that conflicts with applicable decisions of this Court:

When two statutes of limitations are applicable—apply the LONGER.

3. The Ninth Circuit Court of Appeals has rendered a decision in conflict with other Courts of Appeals:

Some circuits determine the RIGHT that has been violated and then check to determine the applicable statute of limitations for an action applying the 42 U.S.C. 1983 REMEDIAL statute. The Ninth Circuit "lumps" all Rights together and applies a statute of limitations applicable to RIGHTS created by statute entitled "liability created by statute" to those actions—irregardless of whether the Common Law RIGHT, embodied in the Fourteenth Amendment, had a longer or a shorter period of enforcement.

4. Has so far departed from the accepted and usual course of judicial proceedings and has so far sanctioned such a departure by a lower Court as to call for an exercise of this Court's power of supervision:

The applicable statute of limitations for written contracts is 6 years in Nevada—not 3 years.

5. Respondents, under color of State law deprived Petitioner of many of the Fundamental Constitutional RIGHTS to Life, Liberty, Property, Due Process and Equal Protection of law.

The judgment sought to be reviewed was dated and entered on July 21, 1980, and is embodied in the Memorandum of the Ninth Circuit Court of Appeals.

An Order denying rehearing was dated and entered September 23, 1980.

The Notice of Appeal to this Court was filed in the Ninth Circuit Court of Appeals on October 14, 1980.

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. 1254 (1).

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution, Amendment XIV, Section 1:

..."No State shall make or enforce any law which shall abridge the privileges or immunties of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

FEDERAL STATUTES

28 U.S.C. 1254.:

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or crim inal case, before or after rendition of judgment or decree;..

28 U.S.C. 1343

The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;

(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.

42 U.S.C. 1983 Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regualtion, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

42 U.S.C. 1985 Conspiracy to interfere with civil rights

Third....in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

NEVADA REVISED STATUTES

LIMITATION OF ACTIONS

Actions Other than for the Recovery of Real Property

11.190 Periods of limitations prescribed. Actions other than those for the recovery of real property, unless further limited by NRS 11.205 or by or pursuant to the Uniform Commercial Code, can only be commenced as follows:

1. Within 6 years:

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceeding sections of this chapter.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

41.036 Conditions, limitations on actions against state, counties, cities, unincorporated towns, other political subdivivions.

3. Every claim against any other political subdivision of the state shall be presented, within 6 months from the time the cause of action accrues, to the governing body of that political subdivision. No action may be brought unless the governing body refuses to approve or fails within 90 days to act upon the claim.

387.325 Limitation of actions on bills incurred by trustees. No action can be maintained against any board of trustees upon any bill not presented for payment to the board of trustees within 6 months of the time when the bill was incurred.

NRS 391.312
NRS 391.313
NRS 391.314
NRS 391.3195

Georgia 3-704 (4360– Statutory rights; recovery of wages, overtime, etc.

All suits for the enforcement of rights accruing to individuals under statutes, acts of incorporation, or by operation of law, shall be brought within 20 years after the right of action shall have accrued:...

STATEMENT OF FACTS

REFERENCES

Mrs. Haugen–Petitioner
Clark County School District–District
Board of School Trustees–Board
Clark County Classroom Teachers' Association–Union
Assemblyman and Petitioner's attorney–Bryan
District's attorney–Petroni
Reading Improvement Program– RIP
Fourteenth Amentment of the United States Constitution–Fourteenth Amendment
Nevada Revised Statutes– NRS

Mrs. Haugen, M.E., a highly successful tenured teacher, had a valid signed written contract with the Clark County School District for 9-1-71 through 6-8-72.

Petitioner's eighth Contract represents the 'property interest' of continued employment which is protected by procedural due process of the Fourteenth Amendment of the United States Constitution. Petitioner had more than an abstract need or desire for this 'property interest'; she had more than a unilateral expectation of it; Petitioner's had a legitimate claim of entitledment to be reemployed for each succeeding year.

Respondents breached this contract when they removed Petitioner from the payroll "at the end of the working day of January 6, 1972.* They breached it when Superintendent Guinn suspended Petitioner "without pay at the beginning of the school day on Friday, January 7, 1972."

On April 26, 1972 the Board wrote the 'Letter of Dismissal.'

On October 25, 1972 the Notice of Claim was presented to the School Board.

On January 23, 1973 Petitioner became able to sue.

On March 9, 1973 Petitioner was notified that the Board had not answered.

On October 7, 1975, Petitioner filed this action.

There is a 6 year statute of limitations on written contracts in Nevada.

***(It is presumed that Respondents met in secret at the School Board's meeting of January 6, 1972, made their decision to dismiss Petitioner, from which decision Superintendent Guinn wrote his letter of suspension, dated January 7, 1972.)**

Petitioner, a tenured teacher, had, as a matter of established law, a legal, vested and beneficial right to continued employment by the District. The importance of this issue is that it requires more substantial evidence to deprive someone of a vested and valuable right than it does to deprive someone who has no such right.

Superintendent Guinn sent a letter to Petitioner notifying her that she was suspended without pay...effective with the beginning of the school day of Friday, January 7, 1972...pursuant to NRS 391.314 and that she was requested to attend a meeting to be held on January 10, 1972.

This suspension did not provide the minimal procedures for Due Process which include a statement of the reasons why she was being suspended, notice of a hearing and a hearing to determine if a cause exists, PRIOR to the deprivation of her pay.

Under Nevada law at that time, Petitioner should have remained on the payroll until after a hearing.

Respondents envoked a statute designed for extra-ordinary circumstances wherein a teacher had been charged with a felony or the teacher's presence in the classroom posed an immediate threat to the safety of her students.

This statute is extremely vague. A Superintendent merely has "to believe that a cause exists" and "be of the opinoin" that the "immediate suspension is in the best interest of the children." He does not have to state the reason or have any evidence– merely on "whim and caprice."

*On January 5, 1972 the principal told Petitioner that children could be removed from the RIP program by parents written requests.

Four parents had written requesting that their children be removed from the RIP program.

Nevertheless the principal told Petitioner to send the children to the RIP program (in another room) which she agreed to do.

Petitioner asked the principal to put his order in writing, which he did.

About 6 p.m. the principal decided to observe Petitioner's highly successful reading program in Petitioner's room on January 6, 1972 and the RIP program on January 7, 1972.

On January 6, 1972 the principal told Petitioner BOTH orally (that he was coming in to see her and those kids had better be there) and in writing (by approving Petitioner's revised Daily Lesson Schedule which removed the children from the RIP program and ordered Petitioner to take necessary action): to honor the parents' written requests to remove the four children from the RIP program. Petitioner followed his instructions to the letter and has it in writing that she did.

Respondents made no attempts to show that an extreme em-emergency type situation existed whereby a denial of a PRIOR hearing was warranted.

On January 13, 1972 Superintendent Guinn, made the inconceivable, incomprehensible charges of "insubordination" and "Neglect of Duty."

Petitioner allegedly "Neglected her Duty "by not teaching after she was suspended.

Petitioner was allegedly "insubordinate" after she was suspended.

Petitioner was allegedly 'insubordinate" for FOLLOWING the principal's oral and written orders, on ONE day –January 6, 1972.

Respondents made no connection between the untimely charge of "insubordination" and "in the best interest of the children."

On January 31 and February 1, 1972 a "hearing" (Kangaroo Kourt)* was held before a panel, appointed by State officials, consisting of a principal and four teachers-all employees of the District and being paid by the District while serving on the panel–all lacking in legal expertise and under the direction of Petroni, the District's counsel, wherein Petitioner was deprived of

*Petitioner was excluded from the "hearing" room while the witnesses testified against her; she was not given the names of the witnesses or the nature of their testimony prior to the hearing. She was not allowed to cross-examine the witnesses; whereas the Respondents were permitted to cross-examine Petitioner. She was prevented from being represented by counsel–someone skilled in the arts of cross-examination by the Union; (the sole bargaining agent for the teachers of Clark County , under the threat that if she went to her attorney they would have nothing more to do with her). She was not allowed to challenge any of the members of the panel as being biased as provided for by statute. She was denied a request for a continuance. She was forced to testify even though she was ill on January 31, 1972 before a panel that was mentally fatigued after listening to the District's testimony for about 6 hours; after testifying for only a few minutes the Panel adjourned and she was denied the opportunity to resume her testimony on February 1, 1972 by the Union. The panel allowed inadmissable evidence. Petitioner does not recall whether she was allowed to present about 65 letters from parents, teachers, administrators, highly recommending her as a teacher and asking that she be retained. In about 306 pages of transcript ONLY 1 sentence related to Petitioner's success with children. The District's attorney stated, "There's no denying Petitioner is an exceptional teacher." (Petitioner's students scored higher than the students in 14 other schools.)

Substantive Due Process.

Although the lay panel, under the guidance of Petroni, the District's counsel, found extreme conflict between the testimonies of Petitioner and her principal they supported the recommendation for dismissal.

The Board by-passed all the statutory procedures for the dismissal of a teacher. The law requires that a teacher be admonished and that a reasonable effort be made to assist the teacher to correct whatever appears to be the cause for potential dismissal and allow a reasonable time for improvement, not to exceed 3 months.

Respondents manner of dismissal not only violated every elementary Fundamental Right to Due Process but also created a lasting stigma which foreclosed all opportunities for future employment as a public, private, or parochial school teacher in Clark County and elsewhere.*

Petitioner went to Respondent Woodbury before the hearing. He asked her why she han't come sooner—it was too late-the Board had already decided to dismiss her and there was nothing he could do. After reading the transcripts the Board felt that the Union representative lost her case for her.

A brief "hearing" was held on Arpril 20, 1972—limited to oral arguments.

On March 9, 1973 Doug Deaner declined to go further with the case. After talking to Bryan, Petitioner's attorney, and Petroni he didn't think she'd make a good witness.

Petitioner did not sleep on her rights. Realizing her lack of legal expertise and her need for an attorney she kept looking.

During the next 3 years Petitioner contacted over 200 attorneys who thought she had a good case—until they talked to Petroni and/or Bryan. Petroni told Petitioner "that she was not

***The abrupt manner of removing Petitioner from the classroom created the impression among fellow teachers, parents of her students, friends and neighbors that "The District must have had 'something' on her to have dismissed her so quickly." It is inconceivable that an exceptional and dedicated teacher could be "dismissed" for NO REASON. Yet, it happened.**

The facts in this case are backed with Respondents' signed documents. Nevertheless the people who read them are left with the feeling that there must have been something seriously wrong with Petitioner, because No One—but No One gets fired from the School District. Petitioner is the first one that she is aware of that had her contract "jerked out from under her" in the middle of the school term—unless convicted of a felony.

fit to be a teacher"* and was alleged to have said that she was lacking in intelligence, emotionally unbalanced and mentally ill. Petroni told Petitioner that many attorneys had called him and when he finished talking to them they didn't want to have anything more to do with her.

Petitioner filed her compliant in propery person on October 7, 1975 based on the Fourteenth Amendment, envoking the jurisdiction of the Cout pursuant to 28 U.S.C. 1343 (3) (4) and applying the Remedial statutes: 42 U.S.C. 1983 & 1985.

Respondents moved to dismiss on the grounds that the complaint failed to allege facts which would support a cause of action; and that the action was untimely.

This action was brought in the Eighth Judicial District Court of the State of Nevada:

On January 10, 1977 the order denying rehearing was filed.

On February 4, 1977 the Notice of Appeal was filed.

On February 28, 1977 the Supreme Court filed an order sua sponte alleging the Notice of Appeal was not timely filed.

Pursuant to NRAP 46 (b) Petitioner could not challenge the order in proper person.

The Writ of Certiorari to the United States Supreme Court was denied May 31, 1977 (76-6551), 431 U.S. 942; 97 S.Ct. 2659; 53 L.Ed.2d 261 (1977).

THIS IS PETITIONER'S LAST CHANCE TO BE HEARD.

Petitioner is not lacking in stamina, verstility, creativity, or adaptability. During her 5:30 a.m. to 10 p.m. working hours (7 days a week) she engages in various roles: chief cook and bottle washer, janitor, secretary, teacher, first aide attendant, personnel director, audio-visual director, Administrator, purchasing and contracting agent, stock lady, counselor, public-relations director, research and development specialist, curriculum developer, Pastor, music director, pianist, song writer, choregrapher, author, art director, typesetter, layout artist, publisher, promoter and distributor. She is also Nevada's second lady contractor. She designed, drew the plans (approved by an architect) and superivsed the construction of an addition unto the orignial school which included 4 classrooms, 4 bathrooms and a kitchen. When necessary she does legal research. In her spare time she also enjoys knitting, crocheting, gardening, hooking rugs, square dancing and traveling.

Petitioner's Kindergarten students have had top scores in the nation for the past 6 or 7 years on the Metropolitan Reading Readiness Test. Her methods and materials are so effective that even 2 year olds read.

STATUTE OF LIMITATIONS

POINT I

The Ninth Circuit Court of Appeals did not apply the Nevada 6 year statute of limitations for Written Contracts in the instant case. Their decision sanctioned a departure from the accepted and usual course of judicial proceedings which is to apply the 6 year statute of limitations to actions based on written contracts in Nevada.

The FACTS speak for themselves:

Below is a copy of the valid contract between Petitioner and the Clark County School District for 9-1-71 through 6-8-72:

Clark County School District

CONTRACT BETWEEN EMPLOYEE AND TRUSTEES

STATE OF NEVADA COUNTY OF CLARK

This CONTRACT, made and entered into by and between the Board of School Trustees of the Clark County School District, party of the first part, and

ELVA J HAUGEN
476-32-0673

$18,749.00 031

party of the second part, hereinafter called employee.

WITNESSETH: That the party of the first part does hereby employ and contract with the employee in position in the aforementioned District, in accordance with the School Laws of Nevada and the rules and regulations prescribed by the State Board of Education and State Superintendent of Public Instruction. This contract may be abrogated only for legal cause as provided in Title 34 of the Nevada Revised Statutes or by mutual consent, or by the provisions indicated below, which are hereby made a part of this contract.

1. A satisfactory evidence contract to legally employed in the public schools of Nevada carries for or the holds a Nevada Certificate of appropriate classification. The Nevada School Code places responsibility for proper certification, at all times, upon the employee.

2. Salary to be subject to monthly deductions for the Public Employees Retirement System of the State of Nevada, withholding taxes required by the United States Treasury Department, group insurance, and credit union payments, and any other deductions approved by the Clark County Board of School Trustees when requested in writing by the employee.

3. In case this contract is not confirmed by the trustees, no salary or employee insurance shall be subsequent and no warrant issued for services rendered by the employee of short duration by this contract.

4. The payment of compensation or any installment thereof under the terms of this contract shall release upon the acceptance, receipt, or acquittance of any employee prior to the close of the scheduled term. Such acceptance shall also release from the date of termination of any employee under the provisions of this contract, unless otherwise ordered by the Board.

5. Assignments requiring additional pay for extra duty or extended supervision may be made at any time during the life of this contract. These assignments also may be terminated at any time during the life of the contract. Commissions therefore authorized may be adjusted in proportion to the length of the assignment terminated.

6. Absence during the life of this contract, the employee may be allowed to retain the assistance on the regular salary and schedule of the salary schedule that is justified by him or her training and experience, as provided in accordance and regulations of the Clark County School District. Transcripts for additional graduate credit must be on the Personnel Office not later than October 1, to qualify placement on the salary schedule.

7. A satisfactory attendance may be disclosed or any complained on examples by THE CHAPTER 391 of Title 34 of the Nevada Revised Statutes.

8. The services of the employee are to commence at such time, and are conferred to such school or schools and such services or positions and at such times as may be designated by the Superintendent of the designated superintendent.

9. The employee reaffirms the oath to support the Constitution of the United States and the Constitution of the State of Nevada.

10. Policies and Regulations of the Board of Trustees are a part of this contract by reference as though set forth in full or attached and amended from time to time during the term of this contract.

IN WITNESS WHEREOF, the said parties have hereunto executed their names in triplicate hereof the day and year first above written.

Signed G. C. Lee

Signed John Mendenhall Clerk — Board of School Trustees

Signed Elva J. Haugen Date 8-4-71

Date signed by employee

Below is a copy of the letter of suspension "without pay at the commencement of the school day of January 7, 1972": without cause, without stating a reason, without notice, without a prior hearing and without following state statutory procedures and in violation of the Due Process Clause of the Fourteenth Amendment:

CLARK COUNTY SCHOOL DISTRICT

LAS VEGAS, NEVADA 89109

[redacted] EAST FLAMINGO ROAD - TELEPHONE [redacted]

BOARD OF SCHOOL TRUSTEES

[redacted]

REGISTERED MAIL
RETURN RECEIPT REQUESTED

January 7, 1972

Mrs. Elva Haugen
5196 Sawyer
Las Vegas, Nevada 89108

Dear Mrs. Haugen

This is to notify you that you are suspended without pay from your position as a teacher with the Clark County School District, effective with the beginning of the school day on Friday, January 7, 1972.

This action is taken in accordance with Nevada Revised Statutes, Section 391.314 of Title 34, Nevada School Law.

You are requested to attend a meeting in Mr. Theron Swainston's office at 1:30 PM Monday, January 10, 1972 to discuss this action. An investigation will be made of your situation and further recommendation will be made regarding your employment status with the Clark County School District.

Sincerely,

Kenny C. Guinn, Superintendent

KCG/ld

AN EQUAL OPPORTUNITY EMPLOYER

Below is a copy of the payroll record dated 2-2-72 confirming Petitioner's removal from the payroll at the end of the working day of January 6, 1972:

EMPLOYEE STATUS

HAUGEN ELVA

SAWYER LAS VEGAS NEV

CLARK COUNTY SCHOOL DISTRICT

The Board arbitrarily, capriciously and maliciously terminated Petitioner PRIOR to any hearing before them. (EVEN PRIOR to receiving a recommendation for dismissal from the Superintendent as required by statute.)

Below is a copy of the letter of dismissal from the Board which does not state the date the dismissal was to become effective or any evidence relied on in determining that Petitioner was "insubordinate" because there was none. (Petitioner should have been "on the payroll" until APRIL 26, 1972 but obviously wasn't. Evidence relied on should have been stated.)

CLARK COUNTY SCHOOL DISTRICT
LAS VEGAS, NEVADA 89109

[redacted]

[redacted]

REGISTERED MAIL
Return Receipt Requested

April 26, 1972

Mr. Richard H. Bryan, Attorney at Law
First National Bank Building - Suite 920
Las Vegas, Nevada 89101

RE: Elva J. Haugen - Dismissal

Dear Mr. Bryan:

As attorney for Elva J. Haugen, this letter is to notify you of the decision of the Board of School Trustees of the Clark County School District in the dismissal of your client as a teacher in the Clark County School District.

After reviewing the findings and recommendations of the Professional Review Panel as provided in NRS 391.31945, and having given you the opportunity to argue in behalf of your client on April 20, 1972 in regard to these findings, it is the decision of the Board that the findings and recommendations are substantial as to the charge of insubordination and are therefore affirmed by this Board.

This decision is based upon the evidence presented, the transcript of the Professional Review Panel Hearing, and the report and recommendations of the Review Panel.

Sincerely,

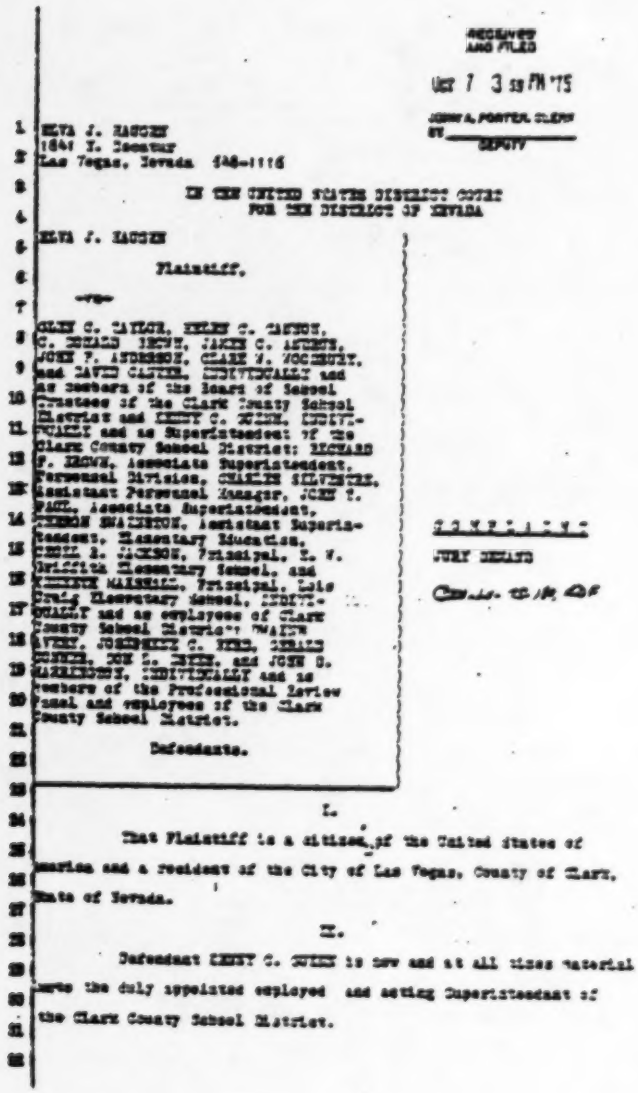
Glen C. Taylor, President
Board of School Trustees

GCT:gr

AN EQUAL OPPORTUNITY EMPLOYER

Holding a hearing on April 20, 1972 to determine if a teacher, who was dismissed 3½ months earlier, should be dismissed is as incomprehensible and useless as starting to take "the Pill" to prevent pregnancy when one is 3½ months pregnant.

Below is a copy of the first page of this action which was filed October 7, 1975:



RECEIVED AND FILED

OCT 7 3 39 PM '75

JOHN A. PORTER, CLERK

BY _____ DEPUTY

ELVA J. HAUGEN
1841 E. Desert
Las Vegas, Nevada 548-1116

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

ELVA J. HAUGEN

Plaintiff,

-vs-

GLEN C. TAYLOR, HELEN C. CLEVER, C. DONALD DICKY, JAMES C. ADAMS, JOHN P. ANDERSON, CLAIR W. WOODBURY, and DAVID CARTER, INDIVIDUALLY and as members of the Board of School Trustees of the Clark County School District and KENNY C. GUINN, INDIVIDUALLY and as Superintendent of the Clark County School District; RICHARD P. BROWN, Associate Superintendent, Personnel Division, CHARLES SILVESTRI, Assistant Personnel Manager, JOHN T. PAGE, Associate Superintendent, [illegible] SWAINSTON, Assistant Superintendent, Elementary Education, [illegible] JACKSON, Principal, L. W. Griffith Elementary School, and [illegible] MARSHALL, Principal, Lois Craig Elementary School, INDIVIDUALLY and as employees of Clark County School District; WALTER [illegible], JOSEPHINE C. [illegible], DONALD [illegible], JOE L. [illegible], and JOHN D. [illegible], INDIVIDUALLY and as members of the Professional Review Panel and employees of the Clark County School District.

Defendants.

COMPLAINT

JURY DEMAND

I.

That Plaintiff is a citizen of the United States of America and a resident of the City of Las Vegas, County of Clark, State of Nevada.

II.

Defendant KENNY C. GUINN is now and at all times material was the duly appointed employed and acting Superintendent of the Clark County School District.

Below is a copy of the applicable statute of limitations for actions on Written Contracts in Nevada:

LIMITATION OF ACTIONS 11.190

ACTIONS OTHER THAN FOR THE RECOVERY OF REAL PROPERTY

11.190 Periods of limitations prescribed. Actions other than those for the recovery of real property, unless further limited by NRS 11.205 or by or pursuant to the Uniform Commercial Code, can only be commenced as follows:

1. Within 6 years:

(a) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged in a store account.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property; but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall not be deemed to have accrued until the discovery by the aggrieved party of the facts constituting such waste or trespass.

The limitations period for written contracts is 6 years in Nevada–irregardless of whether the teacher's contract was with a Private, Parochial or Public school.

Obviously there is no 3 year statute of limitations on written contracts in Nevada or special provisions for those breaches of contract done under Color of State Law.

CONCLUSION: It is obvious:

1. That Petitioner had a written contract with Clark County School District for 1971-72 school term:

2. That Respondents breached this contract on January 6, 1972 by removing Petitioner from the payroll;

3. That the action was filed on October 7, 1975;

4. That the applicable statute of limitations on Written Contracts is 6 years in Nevada;

THEREFORE: This action was commenced within the 6 year limit for Written Contracts in Nevada.

THIS ACTION IS, INDEED, TIMELY.

No further argument should be necessary. HOWEVER, since Petitioner wants to be reinstated and this is her last chance for EVEN being accorded the opportunity to have a "Due Process" hearing wherein a determination could be based on the merits, she is presenting all arguments which further support the timeliness and merit of this action for this Honorable Court's consideration.

ADDITIONAL POINTS

I. Petitioner complied with all statutory prerequisits:

Below is a copy of the "claims" or "demand" statute:

> **41.036 Conditions, limitations on actions against state, counties, cities, unincorporated towns, other political subdivisions.**
>
> 1. No action may be brought under NRS 41.031 against a county without complying with the requirements of NRS 244.245 to 244.255, inclusive, or against a city without complying with the requirements of NRS 268.020, or against an unincorporated town without complying with the provisions of NRS 269.085, or against the state or any agency or other political subdivision of the state without complying with the requirements of subsection 2 or 3 of this section.
>
> 2. Every claim against the state arising out of contract shall be presented in accordance with the provisions of NRS 353.085 or 353.090, and every claim for refund in accordance with the provisions of NRS 353.110 to 353.120, inclusive. Every other claim against the state or any of its agencies shall be presented to the ex-officio clerk of the state board of examiners within 6 months from the time the cause of action accrues. He shall within 10 days deliver a copy of the claim to the risk management division of the department of administration, and refer the claim to the appropriate state agency, office or officer for investigation and report of findings to the board. No action may be brought unless the board refuses to approve or fails within 90 days to act upon the claim.
>
> 3. Every claim against any other political subdivision of the state shall be presented, within 6 months from the time the cause of action accrues, to the governing body of that political subdivision. No action may be brought unless the governing body refuses to approve or fails within 90 days to act upon the claim.
>
> (Added to NRS by 1965, 1414; A 1969, 1117; 1979, 629)

> **387.325 Limitation of actions on bills incurred by trustees.** No action can be maintained against any board of trustees upon any bill not presented for payment to the board of trustees within 6 months of the time when the bill was incurred.
>
> [154:32:1956]

Below is a copy of the Notice of Claim filed on October 25, 1972 by Doug Deaner, attorney:

NOTICE OF CLAIM

TO: BOARD OF SCHOOL TRUSTEES: GLEN C. TAYLOR, HELEN C. CANNON, JOHN F. ANDERSON, CLARE W. WOODBURY, C. DONALD BROWN, JAMES C. ARMOUR, DAVID CARTER and KENNY C. GUINN, and

TO: ROSS R. GLENN, Director of Accounting, 2832 E. Flamingo Road, Las Vegas, Nevada

COMES NOW, ELVA HAUGEN and makes the following statement:

That on January 7, 1972, ELVA HAUGEN was effectively terminated by the Clark County School District. That after her administrative review, she was terminated because of insubordination. That the actions of the Clark County School District was arbitrary and capricious. That there was no evidence submitted as to her insubordination.

Therefore, ELVA HAUGEN was terminated unjustly and without reason and has lost a yearly salary in the sum of $6,167.000 in actual damages and $30,000.00 in punitive damages.

DEANER & DEANER

By /s/ J. Douglas Deaner
J. DOUGLAS DEANER
Attorneys for ELVA HAUGEN
109 South Third Street, #307
Las Vegas, Nevada 89101

I HEREBY CERTIFY that the above and foregoing claim against the Clark County School District is just and reasonable and that the claim is now due and owing and unpaid.

/s/ ELVA HAUGEN
ELVA HAUGEN

Subscribed and Sworn to before me
this 25th day of October, 1972.

NOTARY PUBLIC - STATE OF NEVADA
CLARK COUNTY
NOTARY DEANER DEANER
My Commission Expires Jan 24, 1976

Below is a copy of Doug Deaner's letter stating that the School Board had 60 (90) days to answer but had not done so.

DEANER & DEANER

March 9, 1973

Elva Haugen
5196 Sawyer
Las Vegas, Nevada 89108

Dear Mrs. Haugen:

The School Board had 60 days to answer. They have not done so. You may pursue any effort you may see fit but this office declines to go further with this case. Please come in and pick up your file at your convenience.

Sincerely,

DEANER & DEANER

J. DOUGLAS DEANER

JDD/sag

CONCLUSION: It is obvious that Petitioner complied with the above statute.

HOWEVER: There is conflict between the federal and State Court decisions on the "claims" statute:

1. On July 21, 1980 the Ninth Circuit Court of Appeals decided that the Notice of Claim did not suspend the right to proceed in federal Court under †1983 and †1985 in the instant case.

2. On May 5, 1969 the same District Judge dismissed, with prejudice, another teacher's action for failure to file a claim prior to filing the action in the Harrison v. Clark County School District case—Civil LV 1164. The appelate Court dismissed the action thereby affirming the decision on August 11, 1970 (No. 25,895.)

3. On June 6, 1973 the Supreme Court of Nevada in Turner v. Staggs (510 P.2d 879) decided that NRS 41.036 and other "claims" statutes were unconstitutional because they did not provide equal protection for victims of govennmental torts as private torts.

CONCLUSION: This conflict needs to be settled by this Court because its applicability, at the time, establishes a basis, if necessary, for determining the correct date of accrual in the instant case.

The date of accrual would be about January 23, 1973 when Petitioner first became eligible to file and maintain an action which is about 90 days after the claim had been filed; rather than April 26, 1972, the date that Respondents wrote the, untimely, letter of dismissal.

II. Those actions which would have shorter periods of limitations are not barred when combined with actions with longer statutes of limitations:

In McAllister v. Magnolia Petroleum Co., 357 U.S. 221; 78 S.Ct. 1201 at 1206; 2 L.Ed.2d at 1271 (1958), Mr. Justice WARREN delivered the opinion of the Court:

..."for the reasons stated hereafter, we simply hold that where an action for unseaworthiness is combined with an action under the Jones Act a court cannot apply to the former a shorter period of limitations than Congress has prescribed for the latter."

Mr. Justice BRENNAN concurred with: (p. 1208)

"It thus seems to me that the three year limitation on the Jones Act remedy, 45 U.S.C. 56, 45 U.S.C.A. 56 is the ready and logical source to draw upon for determining the period within which the federal right may be enforced. This period should be applied in an action for unseaworthiness brought in a state court, just as it would be applied by the state courts in actions brought under the Jones Act. Engel v. Davenport, supra." (271 U.S. 33; 46 S.Ct. 410; 70 L.Ed. 813.)

CONCLUSIONS: If two or more statutes of limitations are applicable in an action the Longer period of limitations is applied and both causes of actions are heard.

THEREFORE: In the instant case the Longer period of limitations is 6 years on a written contract, and both the contract and conspiracy causes should be heard.

III. The Ninth Circuit Court of Appeals has rendered a decision in conflict with the decision of another Court of Appeals on the matter of a teacher's contract:

In Harkless v. Sweeny Independent School District of Sweeny, Texas, 388 F. Supp. 738, 749 (1975) Judge Noel stated:

..."in this case, the limitations period is four years, as provided in either Vernon's Tex. Rev. Civ. Stat. Ann. Art 5527 (the contract limitation) or Art. 5529 (the "catch-all" limitations). Guerr v. Manchester Terminal Corp., 350 F.Supp. 529, 532 (S.D.Tex. 1972).

In Beard V. Stephens, 372 F.2d 685 at 688, Cir. Judge Godbold spelled out the procedure for determining the statute of limitations:

..."The problem is a two-step one—first, what under federal law is the "essential nature" of the claim, and second, what statute of limitations would the state courts hold applicable to this type or class of claim. Bertha Building Corp. V. National Theaters Corp., 269 F.2d 785 (2d Cir., 1959), cert. denied, 361 U.S. 960; 80 S.Ct. 585; 4 L.Ed.2d 542 (1960)."

CONCLUSION: In the 42 U.S.C. 1983 teacher action for Nonrenewal of contract the Texas District Court determined the

nature of the RIGHT to be protected was a contract; then it checked the statute of limitations applicable to contracts and found that Texas had a 4 year statute of limitations which had not expired; therefore, that action was timely.

THEREFORE: As applied to the instant 42 U.S.C. 1983 teacher action for Breach of Contract the Nevada District Court should have determined that a contract RIGHT needed to be protected; checked the statute of limitations applicable to contracts in Nevada; found that there is a 6 year limit on contract actions; found that this period would not expire until 1978 and decided that the ACTION IS TIMELY. (It is difficult to determine if United States Magistrate Ward enacted and enforced--by the stroke of his pen--a 3 year statute of limitations on either a written contract or a REMEDY.)

IV. Attorney Interference.

Petitioner has not slept on her rights. Respondents have prevented her from engaging a competent attorney. Petitioner has been physically and orally threatened and attempts have been made to intimidate her so that she wouldn't proceed with this case.

In Downs v. Conway School District 328 F.Supp. 338, 349 (1971) Senior District Judge Clary cited Edwards v. Habib, 130 U.S. App. D.C 126: 397 F.2d 687 (1968), cert. denied; 393 U.S. 1016; 89 S.Ct. 618; 21 L.Ed.2d 560:

> **"A citizen, be he teacher or layman, has the legal right to seek redress be it judicial or administrative for substantial danger and/or threats to his health and/or safety and a court cannot sanction attemps to so intimidate a citizen, that they forego such fundamental rights."**

In Bleton v. Traynor 384 F.2d 82, 86 (1967) Circuit Judge Craven cited Glus V. Brooklyn E. Dist. Terminal, 359 U.S. 231, 233; 78 S.Ct. 760, 762; 3 L.Ed.2d 770 (1959):

> **..."no man may take advantage of his own wrong." see generally Northern Metal Co. v. United States, 350 F.2d 833,837-838 (3d Cir. 1965). And the misrepresentation need not have been made fraudulently. Scarborough v. Atlantic Coast Line R.R., 202 F.2d 84,86 (4th Cir. 1953).**

CONCLUSION: Respondents should not be allowed to take advantage of maliciously violating many of Petitioner's Fundamental RIGHTS.

THEREFORE: Respondents should be barred from EVEN asserting the statute of limitations as a defense.

POINT II

The Ninth Circuit Court of Appeals has decided an important question of federal law which has not been but should be settled by this Court.

Whether the statute of limitations entitled "liability created by statute" is applicable to the REMEDIAL statute 42 U.S.C. 1983.

If so, whether NRS 11.190 (3) (a) violates the equal protection clause of the Fourteenth Amendment becuase it does not provide the same number of years to enforce a federal cause of action as the State of Georgia, which is 20 years.

TWO DISTINCT CLASSIFICATIONS OF RIGHTS

I. Those RIGHTS which existed AT COMMON LAW

A. Those RIGHTS which come under the general categories established in the Fourteenth Amendment:

1. THE RIGHT TO LIFE
2. THE RIGHT TO LIBERTY

In Board of Regents of State Colleges et al v. Roth, 408 U.S. 564, 572; 92 S.Ct. 2701, 2702; 33 L.Ed.2d 548, Mr. Justice STEWART defines Liberty:

..."the right of the individual to contract,..."

3. THE RIGHT TO PROPERTY

In Board of Regents v. Roth, supra, (p. 2709):

..."Certain attributes of "property" interest protected by procedural due process emerge from these decisions. To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it."

4. THE RIGHT TO DUE RPOCESS
   a. Decisions must be stated—not secret
   b. Legal cause
   c. Statement of reasons, notice and a hearing
   d. Hearing before deprivation—at a meaningful time
   e. Confrontation and Cross-examination
   f. Right to counsel of one's choosing
   h. Statement of reasons and evidence relied on
   i. Enforcement of applicable laws
5. THE RIGHT TO EQUAL PROTECTION OF THE LAW

II. Those RIGHTS CREATED BY STATUTE:

1. The Right to vote;
2. The Right for equal accommodations;
3. The Right to be free from invideous discrimination because of race, color, creed, sex, age, poverty, or (state residence [?]); and others.

CONCLUSION: Upon examination of the two distinct Classifications of RIGHTS it is obvious that Petitioner's cause of action is based on those RIGHTS which existed at Common Law and are embodied in the Fourteenth Amendment of the United States Constitution: Life, Liberty, Property, Due Process and Equal Protection.

FURTHERMORE: Respondents have not identified any of Petitioner's RIGHTS , which they violated, that were created by statute.

CLASSIFICATION OF LIMITATIONS OF ACTIONS

I. The Statute of Limitations applicable to those RIGHTS which existed AT COMMON LAW.

A. There is NO "general Statute of Limitations" that is applicable to all Common Law RIGHTS in Nevada;

B. The Statute of Limitations on Common Law RIGHTS is divided into 2 distinct sections in Nevada:

1. Actions for the recovery of Real Property;
2. Actions other than for the recovery of real property:
   a. Each of the various RIGHTS which existed at Common Law has its applicable Statute of Limitations:
      (1) As previous exhibited there are 6 years on written contracts in Nevada.
      (2) There are 4 years on those actions not otherwise provided for in Nevada–conspiracy.

II. The Statute of Limitations applicable to those RIGHTS CREATED BY STATUTE:

A. Nevada has enacted a "general" 3 year Statute of Limitations entitled "liabilites created by statute" applicable to those RIGHTS created by Nevada statute.

III. There is NO statute of Limitations for REMEDIES in Nevada Revised Statutes.

CONCLUSION: REMEDIES are not limited by statute. REMEDIES are limitless. The Period of Enforcement of RIGHTS is limited by statute.

Statutes of Limitations are applicable to BOTH:

1. those RIGHTS which existed at Common Law; and
2. those RIGHTS Created by State Statutes.

The Statute of Limitations varies from 1-6 years in Nevada (depending on the Common Law Right); whereas, the Statute of Limitations for those Rights Created by Statute has one "general" 3 year "Liability Created by Statute" in Nevada.

As established in the section on RIGHTS, Respondents have not identified any of Petitioner's Rights Created by Statute which they violated that would warrant the use of this statute. FURTHERMORE: As established in the section on RIGHTS it was Petitioner's Fundamental Rights to Life, Liberty, Property, Due Process and Equal Protection (RIGHTS which existed at Common Law and guaranteed in and by the Fourteenth Amendment) that Respondents violated.

More specifically: Respondents violated Petitioner's RIGHT to the "property interest" of continued employment which was embodied in and evidenced by the written contract, previously exhibited, when they dismissed her on January 6, 1972, without Due Process.

THEREFORE: The applicable statue of limitations is the statute for written contracts which is 6 years in Nevada.

Petitioner filed her Complaint on October 7, 1975 which was within the 6 year limit.

THIS ACTION IS, INDEED, TIMELY.

POINT II A: 42 U.S.C. 1983

A primary question is whether the statute entitled "liability created by statute" is applicable to the REMEDIAL statute 42 U.S.C. 1983.

When the federal legislature enacted the Civil Rights Acts it included one section, 42 U.S.C. 1983, as a REMEDY to enforce those RIGHTS.

The name "CIVIL RIGHTS ACTS" immediately makes readers think that all the sections established RIGHTS. This is obviously not true.

42 U.S.C.1983 is the REMEDIAL statute applied in "Civil actions for deprivation of rights:

> **"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects or causes to be subjected, any citizen of the United States or other person within jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."**

CONCLUSION: There are NO RIGHTS created in Section 1983 of the Civil Right Acts.

There is NO STATUTE of LIMITATIONS adopted in Section 1983 of the Civil Rights Acts.

Since there is NO RIGHT created, there is NO basis for a Statute of Limtiations.

Section 1983 is a REMEDIAL statute.

As previously established: NRS 11.190 (3) (a) is a Statute of Limitations for RIGHTS Created by Statute--NOT REMEDIES.

THEREFORE: NRS 11.190 (3) (a) is not applicable to the REMEDIAL statute: 42 U.S.C. 1983.

NRS 11.190 (3) (a) is not applicable to the instant case.

POINT IIB: APPLICABILITY OF NRS 11.190 (3) (a)

This section is included to prove that even if there were a RIGHT created by statute that Respondents have violated NRS 11.190 (3) (a) could not be applied because the Fourteenth Amendment prohibits enforcing a State enacted statute that would deprive a citizen of Life, Liberty, or Property without Due Process and Equal Protection of the laws.

A primary question is whether NRS 11.190 (3) (a) –3 year statute of limitations– violates the equal protection clause of the Fourteenth Amendment by not providing an equal number of years to enforce a federal cause of action as the State of Georgia, which is 20 years.

The Fourteenth Amendment states:

> **..."No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."**

NRS 11.190 Periods of Limitations Prescribed.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

Georgia's 3-704 (4360) Statutory rights; ...

"All suits for the enforcement of rights accruing to individuals under statutes,...shall be brought within 20 years after the right of action shall have accrued."

In Graham v. Richardson, 403 U.S. 367; 91 S.Ct. 1848, 1853, (1971) Mr. Justice BLACKMUN cited Takahashi v. Fish & Game Comm'n, 334 U.S. 410, 420; 68 S.Ct. 1128, 1143; 92 L.Ed. 1478 (1948):

"The Fourteenth Amendment and the laws adopted under its authority thus embody a general policy that all person lawfully in this country shall abide 'in any state' on an equality of legal privileges with all citizens under non-discrimatory laws.

"All person within the jurisdiction of the United States shall have the same right in every state and Territory...to the full and equal benefit of all laws and proceedings for the security of persons and property as enjoyed by white citizens."

In International Union, United Automobile, Aerospace and Agricultural implement workers of America v. Hoosier Cardinal Corporation, 383 U.S. 696; 86 S.Ct. 1107, 1116; 16 L.Ed.2d 192; Mr. Justice WHITE, Mr. Justice DOUGLAS and Mr. Justice BRENNAN dissented:

..."Simple justice dictates in such a situation that the right of employees in different States to assert their federal claim should be equally available. Clearly there is no sense or justice in referring to 50 or more different statues of limitations so that one employee may be barred after one year while another employee may sue any time within six years."

CONCLUSION: Both the District Court and the Appellate Court enforced a WRONG statute.

Neither Court identified the statute they applied. They merely applied a "3 year statute."

There is NO 3 year statute on written contracts in Nevada.

NRS 11.190 (3) (a) should not be applied to 42 U.S.C. 1983 actions, becauese 1983 is a REMEDY not a RIGHT.

NRS 11.190 (3) (a)–3 year statute does not equal Georgia's 20 year statute of limitations and (if considered) should be declared either Constitutionally defective or invalid as applied because it does not provide the equal protection of laws as guaranteed by the Fourteenth Amendment.

THEREFORE: THIS ACTION IS, INDEED, TIMELY.

GOVERNMENTAL V. PRIVATE CONTRACTS

Applying NRS 11.190 (3)(a) (liability created by statute) creates an invideous discrimination and amounts to the denial of due process and equal protection of the law.

Failing to file in 3 years would bar the victims of governmental (public school teachers) breaches of contract while the victims of either private or parochial school breaches of contract would suffer no such bar. Such arbitrary treatment clearly violates the equal protection guaranteed by the United States Constitution.

If a 3 year statute of limitations is applied Petitioner would be penalized for exercising her right to bring an action under 1983 and forced to forego the right to a 6 year statute. CONCLUSION: Pursuant to the equal protection clause of the Fourteenth Amendment all teachers who are victims of a breach of contract should have 6 years to enforce their contract in Nevada.

THEREFORE: The 6 year statute of limitations on written contracts is the correct statute of limitations to apply.

DUE PROCESS

IMPARTIAL TRIBUNAL

As previously established: Petitioner's 8th valid written contract is a protected "property interest" to continued employmnet. Respondents arbitrarily, capriciously, and/or malicioulsy breached their contract when they removed Petitioner from the payroll at the end of the working day of January 6, 1972; whereas the contract was until 6-8-72.

Respondents violated all of Nevada's statutory provisions for dismissal of teachers (Appendix G. H): No cause; No admonition; and NO assistance PRIOR to suspension and dismissal.

Respondents' manner of termination (abrupt, secret, one-sided) left serious unanswered questions in the minds of fellow teachers and parents—negative conclusions provided the answers. The general belief is that "No one-but No one—gets fired from the Clark County School District"—unless they have done something so horrible that it's undisclosable. It is inconceivable that an exceptional teacher could be terminated for NO REASON WHATSOEVER. However, that is what happened in this

case.

Although, as seen in every point made, it was Respondents who violated every element of the Fundamental Rights to due Process–it has been Petitioner who has been stigmatized by the illegal abuse of authority.

It was Respondents who did not have a cause; did not have a reason; did not provide notice; did not provide a hearng before they "jerked Petitioner's contract out from under her"; did not disclose the names of the witnesses or the nature of their testimony; did not allow Petitioner to confront those witnesses or cross-examine them; did not state any evidence relied on; and prevented her from engaging an attorney to bring this matter to the attention of the Court. Yet, it is Petitioner who bears the burden, each day, who has paid the price for their illegal actions since 1972–9 long years.

The primary question is whether this Board constituted a fair and impartial tribunal as guaranteed by the Fourteenth Amendment of the Constitution's Due Process Clause when they sat as the final reviewing body 3½ months later.

This Court made a decision on a similar issue in Goldberg v. Kelly, 397 U.S. 254, 272; 90 S.Ct 1011; 25 L.Ed.2d 287 (1970) when Mr. Justice BRENNAN stated:

> ..."He should not, however, have participated in making the determination under review."

CONCLUSION: Pursuant to the above decision the School Board did not constitute a "fair and impartial" tribunal as required by Due Process at the "hearing" on April 20, 1972; NOR on the day they actually decided to remove Petitioner from the payroll at the end of the working day of January 6, 1972.
THEREFORE: Petitioner is entitled to be heard by a "fair and impartial" tribunal and to have her name cleared.

SUMMARY

Petitioner, a tenured teacher, had a valid signed written contract with the Clark County School District for 9-1-71 through 6-8-72. This Contract represents the "property interest" of continued employment protected by the Fourteenth Amendment of the United States Constitution.

Respondents breached this contract on January 6, 1972. To the best of Petitioner's knowledge this is the first time a teacher has been dismissed during the term of her contract in Clark County–except in a felony case.

Respondents abruptly without cause, without stating a reason, without notice and without a hearing removed Petitioner from the payroll (dismissed) on January 6, 1972.

The next day, the Superintendent suspended her without pay pursuant to NRS 391.314 for no cause, no stated reason, no notice and no hearing.

This manner of dismissal not only violates all of the elements of Due Process that this Court has vigorously protected; but this manner of dismissal also created a stigma, which has blackened Petitioner's good name and touched the lives of family, friends, parents, students and prospective attorneys. Petitioner was unable to secure employment in any private or parochial school in the Las Vegas area. One teacher who wrote a letter of recommendation for Petitioner was terminated on perjured testimony and falsified documents. Former teacher friends will not talk to her lest the same thing happen to them. Parents, who thought Petitioner unbelievably kind and dedicated because she tutored their children for FREE 1 hour each day, refused to bring their children back for continued FREE tutoring. It is as if Petitioner had leprosy and they were afraid of "catching it."

Petitioner built (on borrowed money) and established a parocial school so she could continue to work with young students.

Petitioner's ungrounded deprivation has continued for 9 long years and there is no end in sight.

It has been established that:

1. Petitioner's contract represents a Common Law RIGHT which has a 6 year statute of limitations in Nevada.

2. Petitioner brought this action under the Fourteenth Amendment which has No limitations. The federal Courts "borrow" the State's statute of limitations applicable to the RIGHT which was violated. Respondents violated Petitioner's

Right to continued employment for ensuing years.

3. 42 U.S.C. 1983 does not include any RIGHT. 1983 is a REMEDIAL statute applied to enforce federal RIGHTS: BOTH Common Law RIGHTS and those RIGHTS created by Statute.

4. NRS 11.190 (3) (a), a 3 year statute of limitations applicable to RIGHTS Created by Statute is not the applicable statute for this action for 3 reasons:

a. NRS 11.190 (3) (a), (liability created by statute) does not provide protection equal to Georgia's 20 year statue of of limitations on "liabilities created by statute."

b. Applying NRS 11.190 (3) (a) to a public teacher's contract action would invideously discriminate against public school teachers by not providing as long a period of enforcement as the state has provided for private and parochial school teachers who have been the victims of a breach of contract.

c. Petitioner would be penalized for filing in federal court; whereas it is her only available court.

5. Petitioner was prohibited by statuted from filing an action in Court until after she had presented a Notice of Claim to the District and it was denied or until January 23, 1973. This action was filed October 7, 1975 or before 3 years had expired.

CONCLUSION: This is Petitioner's LAST CHANCE to be heard by any Court.

The Nevada Supreme Court dismissed her State Court action sua sponte.

Respondents, acting under color of State law, violated all of Petitioner's known Constitutional Rights–Life, Liberty, Property, Due Process and Equal Protection.

THE LOWER COURTS APPLIED THE WRONG STATUTE.

Petititioner had a contract with Respondents to teacher 9-1-71 through 6-8-72, which they breached on April 26, 1972.

Petitioner was prohibited from filing suit until 1-23-73.

Petitioner filed the complaint on October 7-1975.

There is a 6 year statute of limitations for written contracts in Nevada.

Petitioner filed within BOTH the 3 and 6 year limits.

THE LONGER STATUTE APPLIES.

THEREFORE: THIS ACTION IS, INDEED, TIMELY.

FILED

UNITED STATES COURT OF APPEALS SEP 23 1980

FOR THE NINTH CIRCUIT

RICHARD H. DEANE
CLERK, U.S. COURT OF APPEALS

ELVIS J. HAUSEN,

Plaintiff-Appellant,

v.

GLEN C. TAYLOR, et al.,

Defendants-Appellees.

No. 78-3526
DC# CV 75-180-RDF

ORDER

Before: GOODWIN, POOLE and FERGUSON, Circuit Judges

The panel as constituted in the above case has voted unanimously to deny the petition for a rehearing and reject the suggestion for rehearing en banc.

The full court has been advised of the suggestion of en banc rehearing and no judge of the court has requested a vote on the suggestion of rehearing en banc. Fed. R. App. P. 35(b).

The petition for rehearing is denied and the suggestion of a rehearing en banc is rejected.

A

FILED

JUL 21 1980

RICHARD H. DEANE
CLERK, U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ELVA J. HAUGEN,

Plaintiff-Appellant,

v.

GLEN C. TAYLOR, et al.,

Defendants-Appellees.

No. 78-3526

MEMORANDUM

Appeal from the United States District Court
for the District of Nevada
Roger D. Foley, Chief Judge, presiding

Before: GOODWIN, POOLE and FERGUSON, Circuit Judges

Plaintiff's civil rights action, brought pursuant to 42 U.S.C. §§ 1983 and 1985, is barred by the State of Nevada three-year statute of limitations. Mason v. Schaub, 564 F.2d 308 (9th Cir. 1977).

Plaintiff's right of action accrued as of April 26, 1972, and the pendency of a notice of claim with the school district does not suspend the right to proceed in federal court under §§ 1983 and 1985. See Jackson v. Hayakawa, 605 F.2d 1121, 1127 (9th Cir. 1979).

The judgment is AFFIRMED.

ENTERED

JUN 29 1978

CLERK, U.S. DISTRICT COURT
DISTRICT OF NEVADA
BY _____ DEPUTY

RECEIVED
AND FILED
JUN 23 [illegible] PM '78
[illegible]
BY _____
DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

* * *

ELVA J. HAUGEN,

Plaintiff,

v.

GLEN C. TAYLOR, et al.,

Defendants.

CIVIL-LV-7[illegible] 190, RDF

ORDER

After careful consideration of the pleadings filed herein, and particularly having reviewed the Motions to Dismiss, filed on October 23, 1975, October 28, 1975, November 4, 1975, and November 18, 1975, and all pleadings and orders related thereto, and having further reviewed the Report of the United States Magistrate, filed herein on May 12, 1978, it is

ORDERED:

1. The Report of the United States Magistrate and orders related thereto are approved.

2. The above action, commenced herein on October 7, 1975, is dismissed with prejudice.

DATED: 6/26/78

ROGER D. FOLEY
United States District Judge

C

RECEIVED
AND FILED

MAY 12 12 23 PM '78

CLERK
BY
DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

* * *

ELVA J. HAUGEN,

Plaintiff,

v.

GLEN C. TAYLOR, et al.,

Defendants.

CIVIL-LV-75-180 RDT

REPORT OF UNITED STATES MAGISTRATE

Plaintiff filed a complaint on October 7, 1975, basing jurisdiction on Title 28 United States Code Sections 1343(4) and 2201, and Title 42 United States Code Sections 1983 and 1985, alleging that defendants conspired to violate her civil rights by conspiring to cause her dismissal from the Clark County School District.

Motions to Dismiss were filed on October 23, 1975, October 28, 1975, November 4, 1975, and November 18, 1975, on behalf of all the defendants in this action on the grounds that plaintiff's complaint was untimely, and on the further ground that plaintiff failed to allege facts to support a cause of action.

The complaint arises out of conduct alleged to have occurred on January 31 and February 1, 1972, April 20, 1972, and April 26, 1972. As noted above, this complaint was filed on October 7, 1975.

The three-year statute of limitations which applies to this action was neither tolled nor extended, and had expired prior to the commencement of this action.

Plaintiff has failed in her exhaustive pleadings to sufficiently support her theory that a longer statute of limitations should apply to her situation.

The United States Magistrate's rulings are clarified herein to reflect simply that plaintiff's cause of action is forever barred because the statute of limitations has run.

Dated this 12th day of May, 1978.

United States Magistrate

CLARK COUNTY SCHOOL DISTRICT

LAS VEGAS, NEVADA 89109

2832 EAST FLAMINGO ROAD - TELEPHONE 736-5011

BOARD OF SCHOOL TRUSTEES

Mr. Glen C. Taylor, President
Mrs. Helen C. Cannon, Vice President
Mr. John F. Anderson, Clerk
Dr. Clare W. Woodbury, Member
Mr. C. Donald Brown, Member
Mr. James C. Andres, Member
Mr. David Canter, Member

Dr. Kenny C. Guinn, Superintendent

REGISTERED MAIL
Return Receipt Requested

April 26, 1972

Mr. Richard H. Bryan, Attorney at Law
First National Bank Building - Suite 920
Las Vegas, Nevada 89101

RE: Elva J. Haugen - Dismissal

Dear Mr. Bryan:

As attorney for Elva J. Haugen, this letter is to notify you of the decision of the Board of School Trustees of the Clark County School District in the dismissal of your client as a teacher in the Clark County School District.

After reviewing the findings and recommendations of the Professional Review Panel as provided in NRS 391.31945, and having given you the opportunity to argue in behalf of your client on April 20, 1972 in regard to these findings, it is the decision of the Board that the findings and recommendations are substantial as to the charge of insubordination and are therefore affirmed by this Board.

This decision is based upon the evidence presented, the transcript of the Professional Review Panel Hearing, and the report and recommendations of the Review Panel.

Sincerely,

Glen C. Taylor, President
Board of School Trustees

GCT:gt

AN EQUAL OPPORTUNITY EMPLOYER

SUMMARY OF FINDINGS

BY

PROFESSIONAL REVIEW PANEL

February 2, 1972

Under N.R.S. 391.311 through 391.3197, the Professional Review Panel charged with investigating the CCSD'S case against Mrs. Elva Haugen submits this report.

I. SCOPE

A. On January 31, 1972, the Panel met in the administrative conference room of the CCSD at 8:00 a.m. Opening statements were heard from the CCSD represented by Attorney Robert Petroni from 8:30 a.m. to 9:00 a.m. and from Mrs. Haugen, represented by Mr. Vince Sanacore, from 9:00 a.m. to 9:30 a.m. Testimony and cross examination was heard by the Panel members from witnesses presented by both parties and from witnesses requested by the Panel. The Panel agreed to disregard all of the proceedings from June 1971 Professional Review Panel investigation while considering the current charges.

B. On February 1, 1972, the Panel met again at the CCSD offices and continued its investigation. Final testimony was heard on this date along with summaries presented by Robert Petroni for CCSD and by Vince Sanacore for Mrs. Elva Haugen.

C. On February 2, 1972, the Panel concluded its task with discussion, deliberation and the writing of this report.

II. FINDINGS

The Panel finds sufficient evidence to support the charge of Insubordination filed against Mrs. Haugen.

On the second charge of Neglect of Duty the Panel finds evidence to support the CCSD'S charge, but also has found extenuating evidence which would disallow this charge as reason for dismissal. The Panel believes that Mrs. Haugen communicated adequately enough to Mr. Jackson on January 7, 1972 when she stated, "Get me a substitute", that she would not be performing as a teacher that day. There is no question in our minds that she was emotionally distraught at that time. Mr. Jackson, the principal, apparently understood this communication when he immediately assigned Mr. Donohue to pick up Mrs. Haugen's class in the playground prior to the actual start of the school day. We find both Mrs. Haugen and Mr. Jackson negligent

in not pursuing their conversation further to determine the reason for the request for a substitute and to ascertain whether Mrs. Haugen was leaving immediately or was intending to await the arrival of a substitute.

The Panel additionally finds extreme conflict in the testimony of both Mr. Cecil Jackson and Mrs. Elva Haugen. In addition, we found Mrs. Haugen incapable of pursuing a sequential development of thought which may be explained by her extreme emotional distress at these proceedings.

We support the recommendation for dismissal.

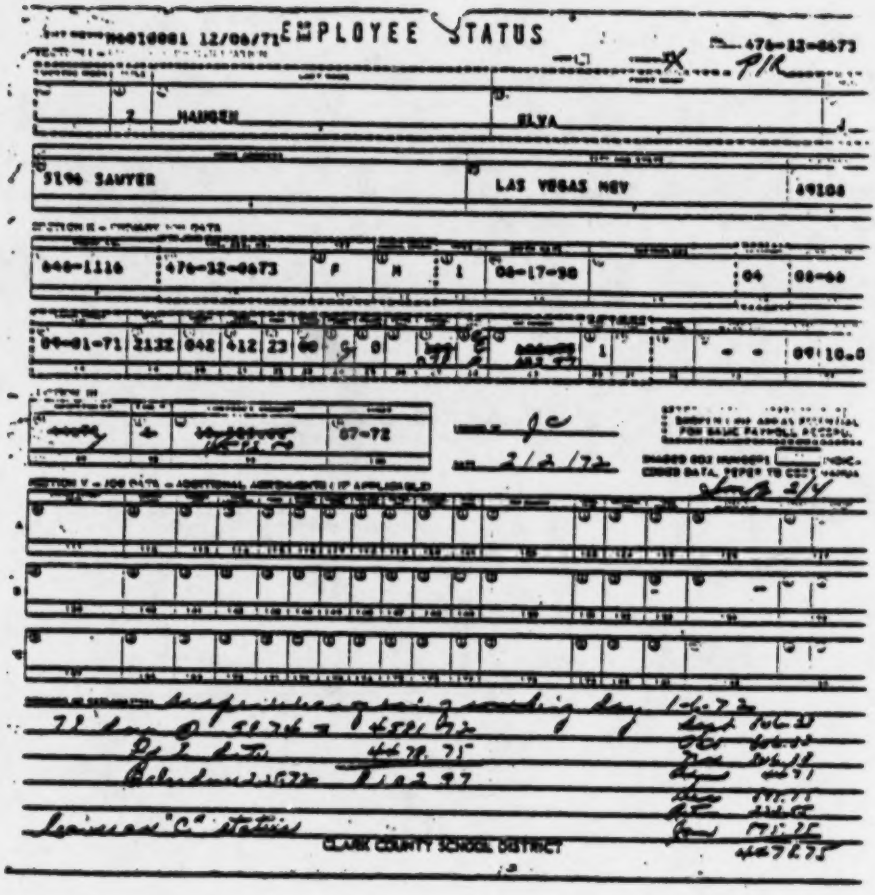
Dwaine Avery, Chairman

Mrs. Josephine Byrd

Gerald Connor

Don Estes

John D. Harrington


EMPLOYEE STATUS

2. "Board" means the board of trustees of the school district wherein a teacher affected by NRS 391.311 to 391.3196, inclusive, is employed.
3. "Superintendent" means the superintendent of a school district or the person acting as such.
4. "Teacher" means any certificated employee of a board of trustees of a school district who has been employed by such board of trustees on a permanent basis at the end of the probationary periods as provided in NRS 391.3197.
(Added to NRS by 1967, 968; A 1969, 271; 1971, 380)

391.3115 Provisions of NRS 391.311 to 391.3197 inapplicable to substitute or adult education teachers. The provisions of NRS 391.311 to 391.3197, inclusive, do not apply to substitute teachers or teachers employed for adult education.
(Added to NRS by 1971, 380)

391.312 Grounds for dismissal, refusal to reemploy teacher.
1. A teacher may be dismissed or not reemployed for the following reasons:
(a) Inefficiency;
(b) Immorality;
(c) Unprofessional conduct;
(d) Insubordination;
(e) Neglect of duty;
(f) Physical or mental incapacity;
(g) A justifiable decrease in the number of positions due to decreased enrollment or district reorganization;
(h) Conviction of a felony or of a crime involving moral turpitude;
(i) Inadequate performance;
(j) Evident unfitness for service;
(k) Failure to comply with such reasonable requirements as a board may prescribe;
(l) Failure to show normal improvement and evidence of professional training and growth;
(m) Advocating overthrow of the Government of the United States or of the State of Nevada by force, violence or other unlawful means, or the advocating or teaching of communism with the intent to indoctrinate pupils to subscribe to communistic philosophy;
(n) Any cause which constitutes grounds for the revocation of a teacher's state certificate;
(o) Willful neglect or failure to observe and carry out the requirements of this Title; or
(p) Dishonesty.
2. In determining whether the professional performance of a teacher is inadequate, consideration shall be given to the regular and special

evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which may have been adopted by the board.
(Added to NRS by 1967, 968)

391.313 Admonition of teacher: Duty of principal, administrator. Whenever a principal or other school administrator charged with supervision of a teacher finds it necessary to admonish a teacher for a reason that he believes may lead to dismissal or cause the teacher not to be reemployed, he shall:

1. Bring the matter to the attention of the teacher involved and make a reasonable effort to assist the teacher to correct whatever appears to be the cause for potential dismissal or failure to reemploy; and
2. Except as provided in NRS 391.314, allow reasonable time for improvement, which shall not exceed 3 months.

(Added to NRS by 1967, 968; A 1969, 853)

391.314 Suspension of teacher without notice, hearing by superintendent of school district.

1. Whenever a superintendent has reason to believe that cause exists for the dismissal of a teacher and when he is of the opinion that the immediate suspension of the teacher is necessary in the best interests of the children in the district, the superintendent may suspend the teacher without notice and without a hearing. Notwithstanding the provisions of NRS 391.312, a superintendent shall automatically suspend a teacher that has been officially charged but not yet convicted of a felony or a crime involving moral turpitude. If the charge is dismissed or if the teacher is found not guilty, he shall be reinstated with back pay and normal seniority. The superintendent shall notify the teacher in writing of the suspension.
2. Within 10 days after such suspension becomes effective, the superintendent shall begin proceedings pursuant to the provisions of NRS 391.312 to 391.3196, inclusive, to effect the teacher's dismissal.
3. If sufficient grounds for dismissal do not exist, the teacher shall be reinstated without loss of compensation.

(Added to NRS by 1967, 969; A 1971, 380)

391.315 Recommendations for dismissal, against reemployment.

1. A superintendent may, or at the direction of the board shall, recommend that a teacher be dismissed or not reemployed.
2. The board may recommend that a superintendent be dismissed or not reemployed.

(Added to NRS by 1967, 969)

391.316 Professional review committee: Creation; number; qualifications; appointment; terms.

1. There is hereby created a professional review committee which shall consist of not less than 42 persons of recognized scholarship and

391.31945 Review of panel recommendations by board; rehearing.

1. The superintendent or teacher may request the board to review the recommendations of the panel rendered pursuant to NRS 391.3193.

2. Such review shall be limited to the findings and recommendations of the panel if, in the opinion of the board, the record is substantial.

3. If the board finds the record unsubstantial it shall rerefer the matter to the panel of the professional review committee to take further evidence and testimony.

4. If the board deems it appropriate, it may order a hearing de novo upon appeal by a superintendent or teacher, in part or whole, concerning the dismissal or reemployment of such teacher.

(Added to NRS by 1971, 380)

391.3195 Hearing procedures for board of trustees; written decision.

1. The following provisions apply to any hearing conducted by the board pursuant to NRS 391.3194:

(a) The board shall permit all relevant evidence to be presented, including the report of the review panel.

(b) The board may require witnesses to give testimony under oath and produce evidence.

(c) The state board of education shall develop a set of uniform standards and procedures to be used in such hearing. The technical rules of evidence need not apply.

(d) The teacher and superintendent may be represented by counsel.

(e) At the conclusion of the hearing the board shall, within 5 days, render a written decision based on the evidence. A copy of the decision shall be given to the teacher and superintendent.

2. If it is the decision of the board to adopt the recommendation of the superintendent, the board may, by resolution, dismiss or not reemploy the teacher.

(Added to NRS by 1967, 971)

391.31955 Action by board of trustees on vote of majority of quorum present. For the purposes of NRS 391.311 to 391.3197, inclusive, the board may act on an affirmative vote of a majority of a quorum present, notwithstanding the provisions of NRS 386.330, as long as the quorum members voting are the same members of the board who heard the accusations, presentation of facts and recommendations relating to the dismissal or reemployment of a teacher.

(Added to NRS by 1971, 379)

391.3196 Reemployment of teachers: Procedure.

1. On or before April 1 of each year, the boards of trustees of the several school districts shall notify, in writing, the teachers in their employ concerning their reemployment for the ensuing year. If the board, or the person designated by it, fails to notify a teacher who has been employed by a school district for a majority of the current year of his status for the

This Writ of Certiorari is RESPECTFULLY SUBMITTED,

Elva J. Haugen

ELVA J. HAUGEN
1841 N. Decatur
Las Vegas, Nevada
89108

I received ~~3~~ 2 copy of the Writ of Certiorari on December 19, 1980.

KEITH EDWARDS
116 S. 4th Street
Las Vegas, Nevada 89101

1-6-81